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DEC 22 2006

Appl. No. 10/634,939
Amtd. dated December 22, 2006
Reply to Office Action of October 23, 2006
Attorney Docket 17398

REMARKS/ARGUMENTS

Claims 1-10 are currently pending for examination. Claims 5 and 10 are presently amended. No new matter has been added.

Allowable Subject Matter

Applicant gratefully acknowledges Examiner's indication that Claims 1-4 are allowed as presented.

Additionally applicant gratefully acknowledges the Examiner's indication that Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 10 has been rewritten in independent form and includes all of the limitations of the base claim and as well as all intervening claims from which it previously depended. Withdrawal of the objection is respectfully requested.

Rejection of Claims 5-7 under 35 U.S.C. 102(e)

Claims 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Asche et al (US 6,431,299).

In order for a reference to be an anticipatory reference, the reference must disclose each and every element of the claimed invention. Applicant respectfully submits that the cited reference fails to disclose all of the limitations claimed in the cited claims. With respect to Claim 5, Claim 5 as currently amended claims, in-part, "said radiator having a cooling face parallel to the longitudinal axis of symmetry" and a pivotable side bonnet panel "parallel to said cooling face."

The cited reference of Asche appears to disclose only a tailgate (41) hinged to wall (40) for receiving the engine and components in chamber (35). (Asche, Col. 2 lines 34-36; Figs. 1, 3, 4). The radiator in Asche does not have a cooling face parallel to the longitudinal axis of symmetry or a pivotable side bonnet panel parallel to that cooling face. Having the access opening created by the pivotable side panel parallel to the cooling face of the radiator, as described in the invention, provides for greatly improved access for maintenance of the cooling unit.

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As Asche fails at least to disclose a "radiator having a cooling face parallel to the longitudinal axis of symmetry" and a pivotable side bonnet panel "parallel to said cooling face" as claimed in Claim 5, Claim 5 should be allowed over the cited art. Claims 6-7 depend from Claim 5 and should be allowed over the cited art for at least the same reason as Claim 5. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 8 and 9 under 35 U.S.C. 103(a)

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asche et al., as applied to claim 7 above, and further in view of Sugano (US 6,540,036).

To establish a prima facie case of obviousness, four basic elements must be met. The Examiner must provide: (1) one or more references that were available to the inventor, (2) that provides some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings, (3) there must be a reasonable expectation of success and (4) the prior art reference must teach or suggest all the claim limitations.

"The test for obviousness is not whether the features of one reference may be bodily incorporated into another reference . . . rather, we look to see whether combined teachings render the claimed subject matter obvious." *In re Wood*, 599 F.2d 924 (C.C.P.A. 1971). None of the cited references (Asche, Sugano) teach or suggest what Applicant has disclosed herein. None of the cited references propose that such a combination would be advantageous or beneficial in the art. A prima facie case of obviousness is not established by locating various claimed components in several references, but must further be supported by some indication, teaching or suggestion in the prior art that the combination can or should be made.

Claims 8 and 9 depend indirectly from Claim 5, which as previously discussed is believed allowable over the cited reference of Asche as Asche fails to teach or disclose all of the elements cited in Claim 5, as currently amended. Likewise, the additionally cited reference of Sugano also fails to teach or disclose all of the elements cited in Claim 5. At minimum, like Asche, Sugano fails to teach or disclose "said radiator having a cooling face parallel to the longitudinal axis of symmetry" and a pivotable side bonnet panel "parallel to said cooling face" as claimed in Claim 5.

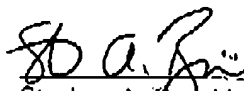
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Because Claim 5 is believed to be allowable over the cited references of Asche and Sugano when either view individually or in combination, Claims 8-9 which depend from Claim 5 are also believed to be allowable over the cited references for at least the same reason as Claim 5. Withdrawal of the rejection is respectfully requested.

All the claims are now believed to be in condition for allowance, early notification of which is greatly appreciated. The Examiner is invited to call the undersigned if an interview would advance the prosecution of the case. No fee is currently believed due, however, if any fee is determined to be due, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-0780.

Applicants' undersigned attorney may be reached at the phone and fax numbers listed below.

Respectfully submitted,



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